



Town of Frederick  
Urban Renewal Authority  
Frederick Town Hall  
401 Locust Street  
Tuesday, April 28, 2015

**\*7:30 P.M.**

**Regular Meeting**

\*will immediately follow the Board of Trustees Meeting

**Call to Order – Roll Call:**

**Approval of Agenda:**

**Public Comment:** This portion of the Agenda is provided to allow members of the audience to provide comments to the Urban Renewal Authority. Please sign in and the Chair will call you. If your comments or concerns require an action, that item(s) will need to be placed on a later agenda. Please limit the time of your comments to three (3) minutes.

**Consent Agenda:**

- A. Approval of April 14, 2015 FURA Minutes – Meghan Martinez, Assistant Secretary
- B. 15-FURA-04 Authorizing the Frederick Urban Renewal Authority to Establish a Bank Account at Chase Bank, NA – Matt LeCerf, Executive Director/Secretary

**Action Agenda:**

- C. 15-FURA-05 Approving a Redevelopment Agreement with Blackfox CMGC, LLC – Matt LeCerf, Executive Director/Secretary
- D. 15-FURA-06 Accepting a Loan from the Town of Frederick, Colorado – Matt LeCerf, Executive Director/Secretary

**Built on What Matters.**



# FREDERICK URBAN RENEWAL AUTHORITY

## MEETING MINUTES

FREDERICK TOWN HALL, 401 LOCUST STREET

APRIL 14, 2015

**Call to Order:** At 10:07 Vice Chairperson Brown called the meeting to order and requested roll call.

**Roll Call:** Present were Vice Chairperson Brown and Commissioners Payne, Schiers, Skates, Burnham and Hudziak. Chairperson Carey was not present. Also present were Executive Director Matt LeCerf, Town Attorney Rick Samson, and Assistant Secretary Meghan Martinez.

**Approval of Agenda:** There were no changes to the agenda.

**Public Comment:** Vice Chairperson Brown indicated that no one had signed up for public comment.

### **Action Agenda:**

**Resolution 15-FURA-01 Appointing Matt LeCerf as Executive Director/Secretary for the Frederick Urban Renewal Authority:** Matt LeCerf presented the proposed resolution. Motion by Commissioner Payne and seconded by Commissioner Schiers to approve 15-FURA-01. Upon roll call vote, motion passed unanimously.

**Resolution 15-FURA-02 Approving an Agreement to Buy, Sell, and Redevelop the Former Public Works Building Property:** Executive Director Matt LeCerf presented the proposed resolution. Motion by Commissioner Schiers and seconded by Commissioner Hudziak to approve 15-FURA-02. Commissioner Payne expressed concerns and indicated he would like to see the property up for sale. Upon roll call vote, motion passed 5-1 with Commissioner Payne voting no.

**Resolution 15-FURA-03 Authorizing the Frederick Urban Renewal Authority to Receive a Loan from the Town of Frederick, Colorado:** Executive Director Matt LeCerf presented the proposed resolution. Motion by Commissioner Hudziak and seconded by Commissioner Skates to approve 15-FURA-03. Upon roll call vote, motion passed unanimously.

There being no further business of the Authority, Chairperson Brown closed the meeting at 10:10 p.m.

Approved by the Frederick Urban Renewal Authority

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Tony Carey, Chair

ATTEST:

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Meghan C. Martinez, Assistant Secretary



# TOWN OF FREDERICK URBAN RENEWAL AUTHORITY ACTION MEMORANDUM

Tony Carey, Chair

Laura Brown, Vice Chair  
Rafer Burnham, Commissioner  
Fred Skates, Commissioner

Amy Schiers, Commissioner  
Gavin Payne, Commissioner  
Donna Hudziak, Commissioner

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## A Resolution Authorizing the Frederick Urban Renewal Authority to Establish a Bank Account at Chase Bank, NA

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**Agenda Date:** Urban Renewal Authority Meeting - April 28, 2015

**Attachments:** a. Resolution 15-FURA-04

**Submitted by:**   
Executive Director

**Approved for Presentation:**   
Executive Director

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

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### **Summary Statement:**

The resolution presented will permit the establishment of a bank account at Chase Bank N.A. for the URA Fund.

### **Detail of Issue/Request:**

Requested in the resolution for the consideration by FURA is authorization to establish a bank account at Chase Bank N.A. for all URA Fund management. Those individuals who will be authorized to sign on the account will be as follows:

- a. FURA Chairman
- b. FURA Vice-Chair
- c. FURA Executive Director
- d. FURA Assistant Secretary
- e. FURA Finance Director

### **Legal Comments:**

The resolution presented was drafted by the Town Attorney.

**Built on What Matters.**

**Alternatives/Options:**

If the URA Board wishes to choose another bank they may provide their recommendation at the meeting.

**Financial Considerations:**

This will enable us to manage our URA Fund with processes recommended by GFOA.

**Executive Director Recommendation:**

The staff recommends approval of the resolution as presented.

**FREDERICK URBAN RENEWAL AUTHORITY  
RESOLUTION NO. 15-FURA-04**

**A RESOLUTION OF THE FREDERICK URBAN RENEWAL AUTHORITY  
(FURA), AUTHORIZING THE AUTHORITY TO DEPOSIT AND/OR INVEST  
PUBLIC FUNDS IN THE CHASE BANK N.A. AND TO WITHDRAW SUCH  
FUNDS FOR THE PAYMENT OF DEBT OR OBLIGATIONS OWED, AND TO  
MAKE USE OF SUCH OTHER SERVICES PROVIDED BY THE BANK AS MAY  
BE DETERMINED APPROPRIATE.**

**WHEREAS**, the Board of Trustees of the Town of Frederick, Co. established the Frederick Urban Renewal Authority on May 14, 2013 by Resolution No. 13-R-15; and

**WHEREAS**, Chase Bank N.A., under the laws of the State of Colorado is designated as a “qualified provider” for the deposit of public funds; and

**WHEREAS**, in accordance with C.R.S. 31-25-105(1)(h), the Frederick Urban Renewal Authority is required to deposit all funds and monies that come into its possession, in one or more state banks, national banks having their principal office in the state, or in compliance with provisions of article 47 of Title 11, C.R.S.; and.

**WHEREAS**, it is the intent of the Board of Commissioners to designate by this resolution the Chase Bank N.A. as a depository for the public funds of the Authority in accordance with C.R.S. 31-25-105(1)(h);

**NOW THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Frederick Urban Renewal Authority of the Town of Frederick, Weld County, Colorado, that:

Section 1. The Chase Bank N.A. is hereby designated as a depository of the FURA for public funds in accordance with the requirements of C.R.S. 24-75-603, and said funds shall be subject to withdrawal upon presentation of checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders for the payment of money as provide herein. Any public funds held by the depository that are not needed for current operating expenses shall be invested in accordance with C.R.S. 24-75-603 (4).

Section 2. The FURA is authorized to pay any such checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders and also to receive the same for the credit of or in payment to the Town without inquiry as to the circumstances of issue or the disposition of proceeds thereof; provided, that for the payment of any such checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders, endorsement by any two of the following shall be required: FURA Chairman, FURA Vice-chair, the FURA Executive Director, the FURA Assistant Secretary and the FURA Finance Director.

Section 3. Any and all endorsements for others on behalf of the FURA upon checks, drafts, notes or instruments for deposit or collection made with the bank may be written or stamped endorsements of the FURA without any designation of the person making such endorsement.

Section 4. The Chase Bank N.A. shall be promptly notified in writing by the FURA of any change in this resolution and that until it has actually receive such notice in writing said bank is authorized to act in pursuance of this resolution.

Section 5. The FURA may avail itself of any other services of the bank as may be reasonably

determined necessary by the FURA Commissioners.

Section 6.       **Effective Date.** This resolution shall become effective immediately upon adoption.

Section 7.       **Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided **that** such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 8.       **Certification.** The FURA assistant secretary shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 28TH DAY OF APRIL, 2015.**

**ATTEST:**

**FREDERICK URBAN RENEWAL  
AUTHORITY**

By \_\_\_\_\_  
Meghan C. Martinez, Assistant Secretary

By \_\_\_\_\_  
Tony Carey, Chairman



# TOWN OF FREDERICK URBAN RENEWAL AUTHORITY ACTION MEMORANDUM

Tony Carey, Chair

Laura Brown, Vice Chair  
Rafer Burnham, Commissioner  
Fred Skates, Commissioner

Amy Schiers, Commissioner  
Gavin Payne, Commissioner  
Donna Hudziak, Commissioner

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## A RESOLUTION OF THE FREDERICK URBAN RENEWAL AUTHORITY APPROVING A REDEVELOPMENT AGREEMENT WITH BLACKFOX CMGC, LLC

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**Agenda Date:** Urban Renewal Authority Meeting - April 28, 2015

**Attachments:** FURA 15-R-05

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:**   
Executive Director

**Approved for Presentation:**   
Executive Director

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

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### **Summary Statement:**

The resolution presented will establish the terms of the redevelopment agreement between the Frederick Urban Renewal Authority and Blackfox CMGC, LLC. A copy of the legal description will be provided prior to the URA Board Meeting.

### **Detail of Issue/Request:**

Presented for consideration by the Board of Trustees is an agreement between the Frederick Urban Renewal Authority and Blackfox CMGC, LLC. The agreement outlines the terms and conditions by which Blackfox CMGC, LLC will redevelop the Talbert Building property located at 206 5<sup>th</sup> Street. As part of this redevelopment agreement the Town would also provide a loan to FURA in the amount of \$50,000.00 to cover demolition and legal costs associated with this project. Some of the specific terms of the agreement are structured so that the Frederick Urban Renewal Authority will assist with the demolition of the property which is expected to cost in the area of \$45,000. The remaining \$5,000 would be applied to the legal costs incurred for this project. As part of the assistance by FURA to

demolish the property, Blackfox will commit to making improvements on the property and having an operational business within three years.

The revenue that is generated from the new business(es) established on this property will go to reimburse the Town via the URA's tax increment financing (TIF). Beyond the TIF, there are other controls in place that would enable FURA to recover the funds expensed for the demo that need to be reimbursed to the Town. One of the methods is through the agreement which states that if Blackfox does not have an operational business in place by May of 2018 that they must begin repayment of the Town over the following five years by paying 20% of the total cost each year. The other method which is set out in section 6.9 of the agreement calls for a deed of trust and promissory note. This project will have huge implications for the future and long term successes of the downtown.

The project also permits for the reimbursement to the developer for the improvements made to the property, but only after the Town receives its complete reimbursement first. The reimbursements are based on the public improvements necessary for the project, but do not include anything related to the construction of the facility. The calculations for the reimbursable items have been provided and approved as reasonable requests. All costs will need to be certified and the total reimbursement he may receive is up to \$194,901.00

#### **Legal Considerations:**

The resolution and URA agreement were reviewed by the Town Attorney and our URA Attorney respectively.

#### **Alternatives/Options:**

The Town could choose not to approve this agreement and if desired provide the Executive Director with other options from which to consider.

#### **Financial Considerations:**

Funds realized by the redevelopment of the property will be applied to the reimbursement of the Town should they approve the loan. The TIF may be significant based on the business types established.

#### **Staff Recommendation:**

The staff recommends approval of the resolution as presented authorizing the execution of the redevelopment agreement.



**FREDERICK URBAN RENEWAL AUTHORITY  
RESOLUTION NO. 15-FURA-05**

**A RESOLUTION OF THE FREDERICK URBAN RENEWAL  
AUTHORITY APPROVING AN AGREEMENT WITH BLACKFOX  
CMGC, LLC TO REDEVELOP AND DEMOLISH THE TALBERT  
BUILDING**

**WHEREAS**, the Frederick Urban Renewal Authority, hereafter known as the FURA, wishes to provide funds to allow the owner of the Talbert Building to demolish the existing improvements then offer the property for redevelopment; and

**WHEREAS**, FURA has caused to be prepared an redevelopment agreement ('AGREEMENT') to accomplish the demolition of the improvements and the redevelopment of the property .

**BE IT RESOLVED BY THE COMMISSIONERS OF THE FREDERICK URBAN RENEWAL AUTHORITY, AS FOLLOWS:**

**Section 1.** The Commissioners approve the AGREEMENT attached hereto, direct the Chair to execute the AGREEMENT.

**Section 2. Effective Date.** This resolution shall become effective immediately upon adoption.

**Section 3. Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 4. Certification.** The Authority Secretary shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND SIGNED 28TH DAY OF APRIL, 2015.**

**ATTEST:**

**FREDERICK URBAN RENEWAL  
AUTHORITY**

By \_\_\_\_\_  
Meghan C. Martinez, Assistant Secretary

By \_\_\_\_\_  
Tony Carey, Chair

## **REDEVELOPMENT AGREEMENT**

1.0 PARTIES. The parties to this Agreement (the “Agreement”) are the FREDERICK URBAN RENEWAL AUTHORITY, a body corporate of the State of Colorado (the “Authority”) and BLACKFOX CMGC, LLC, a Colorado limited liability company (the “Owner”) (the Authority and the Owner are also referred to collectively as the “Parties” or individually as a “Party”).

2.0 RECITALS. The Recitals to this Agreement are incorporated herein by this reference as though fully set forth in the body of this Agreement.

2.1 The Authority. The Authority has been organized by the Town of Frederick (the “Town”) and is operating as an urban renewal authority pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”).

2.2 The Property. The Owner owns or is acquiring title to the real property described in Exhibit A (the “Property”). The Town and the Authority desire to assist the Owner with the demolition of existing dilapidated and abandoned improvements on the Property and with certain eligible costs to redevelop the Property subject to the terms and conditions of this Agreement.

3.0 TERMS AND CONDITIONS. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as set forth in this Agreement.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 of the Colorado Revised Statutes.

“Agreement” means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

“Authority” means the Frederick Urban Renewal Authority, a body corporate and politic of the State of Colorado, and its successors and assigns.

“Authority Administrative Fee” means the administrative fee payable to the Authority pursuant to Section 5.3.1.

“Commence Construction” or “Commencement of Construction” means the visible commencement by the Owner of actual physical construction and operations on the Property for the erection of the Improvements, without limitation, obtaining all required permits and licenses and installation of a permanent required construction element, such as a caisson, footing, foundation or wall.

“Complete Construction” or “Completion of Construction” means for the Private

Improvements, the issuance of a certificate of occupancy by the Town so that the Private Improvements described in such certificate may open for permanent occupancy and utilization for their intended purposes; and for the Eligible Public Improvements, means construction acceptance by the Town in accordance with all applicable Town requirements (subject to any conditions of maintenance and warranty), or by the appropriate public body or public utility that construction is complete in accordance with applicable laws, ordinances and regulations.

“Cooperation Agreement” means an agreement between the Town and the Authority in which, without limitation, the Town agrees to provide funds for the Demolition Costs and the legal and administration costs of preparing the UR Plan and related documents.

“Demolition Costs” means the cost to demolish and clear the existing improvements on the Property. The Demolition Costs shall be paid by the Authority from the proceeds of a loan from the Town as described in Section 5.3.4.

“Development and Financing Plan” means a plan, in the form attached as Exhibit B, prepared by the Owner for review and approval by the Authority.

“Eligible Costs” means the reasonable and customary certified costs up to a maximum of \$194,901.00 that may be paid to the Owner pursuant to this Agreement. Eligible Costs do not include Demolition Costs, but may be reimbursed to the Owner pursuant to Section 6.9.

“Eligible Public Improvements” means the public improvements described in Exhibit C.

“Improvements” means, collectively, the Private Improvements and the Eligible Public Improvements.

“Owner” means the Party identified in Section 1.0 and any successor or assign approved by the Authority in accordance with this Agreement.

“Owner Repayment” means the payment that the Owner will make to the Authority pursuant to Section 6.9 if the Owner fails to redevelop the Property as provided herein.

“Party” or Parties” means, singularly, a party or, collectively, the parties to this Agreement identified in Section 1.0.

“Private Improvements” means the privately owned retail uses that generate municipal sales tax revenues identified in the Development and Financing Plan (as approved by the Authority) that the Owner will construct on the Property.

“Reimbursement Obligation” means the obligation of the Authority to reimburse the Owner for the Eligible Costs pursuant to Section 5.3.3.

“Special Fund” means the fund described in Section 5.3.

“TIF Revenue” means the revenue to be deposited in the Special Fund pursuant to the UR Plan, if adopted and approved by the Town Trustees.

“Town Loan” means a loan from the Town to the Authority for the purpose of paying the Demolition Costs and the legal and administrative costs of preparing the UR Plan and related documents and negotiating this Agreement.

“UR Plan” means the proposed urban renewal plan described in Section 4.1.

4.0 CONDITIONS PRECEDENT. The respective obligations of the Parties under this Agreement are conditioned upon the following events, which must be satisfied or waived by the date specified for each event. The Agreement may be terminated by either Party if such conditions are not satisfied or waived.

4.1 UR Plan. On or before May 15, 2015 the Town must have approved an urban renewal plan (the “UR Plan”) that includes the Property after the Parties have cooperated to comply with the requirements of the Act with respect to documentation of conditions and requirements incidental to approval of such UR Plan, but nothing herein shall compel the Town to approve the UR Plan, it being the understanding of the Parties that approval of the UR Plan is a matter of discretion reserved exclusively with the Board of Trustees of the Town under the Act.

4.2 Cooperation Agreement. On or before May 15, 2015 the Town and the Authority must have entered into the Cooperation Agreement and any related documents described in Section 5.2.

4.3 Development and Financing Plan. On or before January 15, 2017 the Owner shall have obtained the Authority’s approval of the Development and Financing Plan for the Property as described in Section 6.1 and Exhibit B.

4.4 Commencement of Construction. On or before May 15, 2017 the Owner shall have undertaken Commencement of Construction of the Improvements.

4.4 Failure of Conditions. If all of the foregoing conditions precedent have not been satisfied or waived in writing on or before the respective dates listed for each event in the Schedule of Performance, either Party may terminate this Agreement by giving written notice to the other. Upon such notice of termination the Owner shall be responsible to pay the Owner Repayment to the Authority in accordance with Section 6.9. Upon receipt of such notice of termination, this Agreement shall terminate and become null and void, except for the Owner Repayment, which shall remain an obligation of the Owner as set forth in Section 6.9.

5.0 OBLIGATIONS OF THE AUTHORITY. The Authority shall have the following obligations under this Agreement.

5.1 Preparation of UR Plan. The Parties agree and authorize the Authority and its agents and employees access to the Property for the purpose of ascertaining and documenting the presence of conditions (if any) that qualify the Property for adoption of a UR Plan at the discretion of the Town Trustees. If such conditions exist, the Authority shall prepare and present to the Town Trustees a UR Plan that, if approved and adopted, would enable the Owner to redevelop the Property in accordance with this Agreement. The UR Plan shall contain tax increment financing provisions that, if approved, would produce sufficient revenue to finance the obligations of the Parties set forth in this Agreement. Preparation of the UR Plan shall include all documents and notices required by the Act for the approval and implementation of the UR Plan.

5.2 Cooperation Agreement. The Authority shall prepare a Cooperation Agreement between the Authority and the Town, including any additional documents as may be required to implement the Cooperation Agreement, by which the Town agrees to advance to the Authority the amount of \$50,000, which the Authority shall in turn use (a) as a loan to the Owner to pay the Demolition Costs as described in Section 5.3.4 and (b) to apply to the legal costs and expenses related to preparation and negotiation of this Agreement and preparation of the UR Plan and related documents.

5.3 Special Fund. Subject to the provisions of this Agreement, the Authority agrees to (or to cause the Town to do so on behalf of the Authority) establish, make deposits into and make disbursements from a special fund (the "Special Fund") in accordance with the Act. The Authority shall deposit all tax increment revenue (the "TIF Revenue") allocated to it pursuant to the UR Plan, if adopted and approved by the Town Trustees, into the Special Fund. The TIF Revenue shall be applied to payment of the following obligations in the following order of priority:

5.3.1 Authority Administrative Fee. As first priority, the Authority shall collect an Annual Administrative Fee of 3% of the total annual TIF Revenue it receives pursuant to the Act and the UR Plan, the proceeds of which shall be used to defray the Authority's costs of administering the UR Plan, including the collection and disbursement of TIF Revenue.

5.3.2 Town Reimbursement. As second priority, the Authority shall pay the Town the full amount of the Demolition Costs and one-half (1/2) of the legal costs and expenses of the Town and the Authority related to preparation negotiation of the Agreement and preparation of the UR Plan and related documents.

5.3.3 Owner Reimbursement. As third priority, the Authority shall pay the Owner for the certified total of the Eligible Costs incurred by the Owner related to each of the Eligible Costs up to a maximum of \$194,901.00 (the "Reimbursement Obligation").

5.3.4 Demolition Costs. The Authority shall pay Demolition Costs by issuing a two party check payable to the Owner and the fully licensed, insured and otherwise qualified demolition contractor selected by the Owner pursuant to a competitive bidding process and approved by the Authority. Such contractor shall submit a detailed statement of the Demolition

Costs, verified and certified by the Owner and such supporting documentation as the Authority may reasonably require, including conditional lien waivers. In no event will the total of all Demolition Costs exceed \$45,000.

5.4 No Impairment. The Authority shall not enter into any agreement or transaction that impairs the rights of the Parties under this Agreement, including, without limitation, the right to receive and apply TIF Revenue to payment of the Reimbursement Obligation.

5.5 Books and Accounts. The Authority will keep, or cause to be kept, proper and current books and accounts in which complete and accurate entries shall be made of the amount of TIF Revenue received by the Authority and the amounts deposited into and paid out from the Special Fund.

5.6 Inspection. All books, records and reports (except those required by applicable law to be kept confidential) in the possession of the Authority relating to the TIF Revenue, allocation of such revenue to the Special Fund, including the books and records described in Section 5.5, shall at all reasonable times be open to inspection by the Owner.

6.0 OBLIGATIONS OF THE OWNER. The Owner shall have the following obligations under this Agreement.

6.1 Development and Financing Plan. The Owner agrees to prepare and deliver to the Authority the Development and Financing Plan in accordance with the requirements of Exhibit B on or before the dates specified for each of the items listed in Exhibit B.

6.2 Demolition of Existing Improvements. Within 30 days of notice that the Authority has received the Demolition Costs, the Owner agrees to demolish or cause the demolition and clearance of the existing improvements on the Property in accordance with the requirements of the Town. The Authority shall pay the Demolition Costs in accordance with Section 5.3.4.

6.3 Construction of Improvements. The Owner agrees to (a) construct the Improvements on the Property in accordance with the Development and Financing Plan as approved by the Authority or, in the alternative, (b) pay the Owner Repayment to the Authority in accordance with Section 6.9.

6.4 Construction; Time Limitation. All construction required by this Agreement shall comply with all applicable laws, ordinances, standards, and policies. The Owner shall obtain all approvals required to obtain a building permit and shall Commence Construction of the Improvements on the Property on or before May 15, 2017, and shall Complete Construction of all the Improvements, including the Eligible Public Improvements, on the Property on or before May 17, 2018.

6.5 Cost Certification. Eligible Costs shall not be recognized as such unless and until

they are documented and certified by the Owner pursuant to a reasonable cost certification procedure established by the Authority, and in no event shall Eligible Costs exceed a maximum of \$194,901.00. There shall be no duplicate payment of any of the Eligible Costs. Eligible Costs shall include only those soft costs reasonably allocated to the Eligible Improvements and shall not include any soft costs attributable to the Private Improvements, as determined by the Authority. All such submissions shall include a certification signed by the Owner's general contractor and an authorized representative of the Owner. The certificate shall state that the information contained therein is true and accurate to the best of each individual's information and belief and, to the best knowledge of such individual, qualifies as Eligible Costs. Such submissions shall include copies of backup documentation supporting the listed cost items, including bills, statements, pay request forms from first-tier contractors and suppliers, conditional lien waivers, and copies of each check issued in payment of such costs. Statements for payment of Eligible Costs shall not include advance payments of any kind for unperformed work or materials not delivered and stored on the Property.

6.6 Insurance. At all times prior to Completion of Construction, the Owner, within ten days after request by the Authority, will provide the Authority with proof of payment of premiums and certificates of insurance showing that the Owner is carrying, or causing prime contractors to carry, builder's risk insurance, comprehensive general liability and worker's compensation insurance policies in amounts and coverages reasonably required by the Authority. Such policies of insurance shall be placed with financially sound and reputable insurers, require the insurer to give at least thirty (30) days advance written notice of cancellation to the Authority and will include the Authority and the Town as additional insureds on such policies.

6.7 Indemnification. The Owner will defend, indemnify, assume all responsibility for and hold the Town, the Authority, Town Trustees, Authority board members, and their officers and employees harmless (including, without limitation, for attorney fees and costs) from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the construction activities under this Agreement, whether such activities are undertaken by the Owner or anyone directly or indirectly employed by or under contract to the Owner and whether such damage shall accrue or be discovered before or after termination of this Agreement.

6.8 Restrictions on Assignment and Transfer. Until Completion of Construction, the Owner shall not assign all or any part of or any interest in this Agreement or the Property or the right to receive the Reimbursement Obligation, without the prior written approval of the Authority. Following Completion of Construction the Owner shall be free to transfer or assign the Property and the right to receive the Reimbursement Obligation, together or separately, without the consent of the Authority. Granting of a mortgage or deed of trust by the Owner for purposes of collaterally securing financing of Completion of Construction of the Improvements shall not constitute an assignment or transfer. For the purposes of this Agreement, transfer shall include a change in the identity of the parties in control of the Owner. Prior to Completion of Construction, the Owner shall promptly notify the Authority of any and all changes whatsoever in the identity of the parties in control of the Owner, or the degree thereof. No voluntary or

involuntary successor in interest of the Owner shall acquire any rights or powers under this Agreement except as expressly set forth herein. Approval of a transfer by the Authority shall not relieve the Owner of its obligations hereunder unless the Authority agrees in writing. The Authority shall not be obligated to approve any assignment or transfer that does not include all of the rights and responsibilities under this Agreement.

6.9 Owner Repayment. If the Owner fails to Commence Construction on or before the time specified in Section 6.4 or fails to Complete Construction on or before the date specified in Section 6.4, the Owner shall pay to the Authority the full amount of the Demolition Costs and fifty percent (50%) of the attorney fees incurred by the Authority and the Town with respect to preparation and adoption of the UR Plan, including all related documents, impact statement, and notices, and in preparation and negotiation of this Agreement and the Cooperation Agreement (the "Owner Repayment"). Payment shall be made in five (5) equal annual installments with the first annual installment due and payable thirty (30) days after receipt of notice from the Authority or the Town of the total amount of the Owner Repayment and the amount of the first annual installment and each succeeding installment. Thereafter each annual installment shall be due and payable on each succeeding anniversary date of the due date of the initial payment specified in the notice to the Owner. The Owner Repayment obligation shall be secured by a promissory note and deed of trust on the Property in favor of the Town and the Authority in form and substance satisfactory to the Town and the Authority, which obligation shall be enforceable by either the Town or the Authority or both, including, without limitation, by foreclosure of a deed of trust, filing of a lis pendens against the Property if the Owner defaults in making timely payment of any installment of the Owner or any other method of enforcement. Upon payment in full of the Owner Repayment obligation, the Authority shall release and cause the Town to release of record any such lien, deed of trust, and/or lis pendens. If the Owner pays the Owner Repayment in full as set forth herein, it shall be allowed to recover such Owner Repayment amount in full as an Eligible Cost from any municipal TIF Revenue authorized by the UR Plan, if adopted and approved by the Town Trustees, within the times allowed by the Act and the UR Plan.

6.10 Damage Repair. Notwithstanding any language in any agreement to the contrary, prior to Completion of Construction of the Improvements, the Owner shall repair any damage to improvements, including public improvements located outside of the boundary lines of the Property, caused by the Owner (or contractors, agents, employees, or other parties acting for or on behalf of the Owner) during demolition of the existing improvements and construction of the Improvements, including, without limitation, damage to public streets and rights of way and to any improvements installed or owned and/or maintained by the Town. The Owner shall not be deemed to have achieved Completion of Construction unless and until all such repairs have been completed and approved by the Town.

7.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail or reputable overnight courier service, by certified mail or registered mail, postage prepaid return receipt requested, addressed to the Party to whom such



notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other Party.

8.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

9.0 DELAYS. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or order of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, that are beyond the control of such Party.

10.0 DEFAULT. Time is of the essence, subject to Section 9.0 above. If any payment or any other material condition, obligation, or duty is not timely made, tendered, or performed by any Party, then any non-defaulting Party may seek any remedy available at law or in equity, including damages; provided, however, damages, if any, recoverable by the Owner shall be limited only to the amounts payable under this Agreement when and as received by the Authority. No special, consequential, or punitive damages shall be payable for any default under this Agreement.

11.0 SECTION CAPTIONS. The captions of the sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

12.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

13.0 AMENDMENT. This Agreement may be amended only by an instrument in writing signed by the Parties.

14.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and shall not operate or be construed as a waiver of any subsequent breach by any Party.

15.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado and venue for any litigation shall be Weld County, Colorado.

16.0 BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

17.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one

and the same instrument.

18.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

19.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

20.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make non-substantive corrections to this Agreement and attached exhibits, if any, as the Parties mutually consider necessary.

21.0 DAYS. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day shall be extended until the next day on which such banks and state offices are open for the transaction of business.

22.0 GOOD FAITH OF PARTIES. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

23.0 PARTIES NOT PARTNERS. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

24.0 NONLIABILITY OF OFFICIALS, AGENTS AND EMPLOYEES. No Town Trusee, board member, commissioner, official, employee, consultant, attorney or agent of the Authority or the Town shall be personally liable to the Owner under the Agreement or in the event of any default or breach by the Town or Authority or for any amount that may become due to the Owner under the Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names as of \_\_\_\_\_, 2015.

THE FREDERICK URBAN RENEWAL AUTHORITY

ATTEST:

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Chair  
401 Locust Street  
Frederick, CO 80504

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Secretary

BLACKFOX CMGC, LLC

By:

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Manager  
7998 Angel View Drive  
Frederick, CO 80530

## **EXHIBIT A**

### Legal Description of the Property

## **EXHIBIT B**

### **FORM OF DEVELOPMENT AND FINANCING PLAN**

The Development and Financing Plan prepared by the Owner, submitted to the Authority, and approved in writing by the Authority shall establish to the reasonable satisfaction of the Authority on the dates specified below for each item that:

1. Sufficient revenue will be derived from construction of the Private Improvements to pay all costs of the proposed urban renewal project described in the UR Plan. The Private Improvements must be evidenced by leases or sale agreements for retail improvements that produce municipal sales tax increments to make all payments set forth in Section 3.0 of the Agreement on such reasonable terms as the Authority shall approve on or before January 16, 2017; and

2. The schedule of construction of the Improvements that conforms with Section 6.4 of the Agreement on or before January 16, 2017; and

3. Cost estimates, including all reasonable and necessary soft costs attributable to the Eligible Public Improvements listed in Exhibit C on or before, January 15, 2017; and

4. Construction financing and funding commitments in amounts and form establishing to the reasonable satisfaction of the Authority that the Owner will be able to Complete Construction of all of the Improvements required by this Agreement and the approved Development and Financing Plan on or before May 8, 2017; and

5. A list of all contingencies and conditions that must be satisfied or waived prior to the initial and ongoing financing and funding required for construction of the Improvements included in Paragraph 4, above, including the requirements of any lenders or equity investors.

## EXHIBIT C

### Eligible Public Improvements

<u>Item</u>	<u>Cost Estimate</u>
Water and Fire Suppression Taps	\$ 81,550.00
Electric Service Upgrade and Installation	47,135.00
Other Utility Improvements	6,500.00
Sidewalks or Public Parking Improvements	12,216.00
Landscaping	15,000.00
Earthwork/site preparation	30,000.00
50% of Legal Soft Costs	2,500.00
 TOTAL*	 \$ 194,901.00*

\* Notwithstanding any language to the contrary, the total Reimbursement Obligation shall not exceed One hundred ninety-four thousand, nine hundred one Dollars (\$194,901).

\*\* Provided the Owner reimburses the Authority and the Town pursuant to Section 6.9, the Owner shall be allowed to recover demolition and other costs as provided in Section 6.9.



# TOWN OF FREDERICK URBAN RENEWAL AUTHORITY ACTION MEMORANDUM

Tony Carey, Chair

Laura Brown, Vice Chair  
Rafer Burnham, Commissioner  
Fred Skates, Commissioner

Amy Schiers, Commissioner  
Gavin Payne, Commissioner  
Donna Hudziak, Commissioner


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## A Resolution Authorizing the Frederick Urban Renewal Authority to Accept a Loan from the Town of Frederick, Colorado

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**Agenda Date:** Urban Renewal Authority Meeting - April 28, 2015

**Attachments:** a. Resolution 15-FURA-06

**Submitted by:**   
Executive Director - FURA

**Approved for Presentation:**   
Executive Director

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

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### **Summary Statement:**

The resolution presented will issue a loan by the Town of Frederick to the Frederick Urban Renewal Authority for the purposes of assisting with redevelopment of Talbert Building located at 206 5<sup>th</sup> Street.

### **Detail of Issue/Request:**

Requested in the resolution for the consideration by FURA is an agreement between the Town of Frederick and the Frederick Urban Renewal Authority (FURA). This resolution would authorize for FURA to receive a loan in the amount of \$50,000 by the Town for the purposes of facilitating and assisting with the redevelopment of 206 5<sup>th</sup> Street. The \$50,000 would be allocated to demolish the existing building at the site and to pay for legal costs associated with the establishment of the redevelopment agreement and UR Plan and Area. This resolution also outlines the ultimate guarantee by which the Town could ultimately be repaid by, but there are other more preferred options including the establishment of a building and business that generates sales tax as well as a repayment agreement by the owner of the property.

### **Legal Comments:**

Built on What Matters.

The resolution presented was drafted by the Town Attorney.

**Alternatives/Options:**

FURA could not accept the loan and explore other financial alternatives. If they cannot find alternatives, no funding would be available for the demolition and the redevelopment may not be applicable.

**Financial Considerations:**

FURA will be required to reimburse this obligation back to the Town by the completion of the 25 year TIF agreement between FURA and Blackfox.

**Executive Director Recommendation:**

The staff recommends approval of the resolution as presented authorizing receipt of the loan from the Town.



**FREDERICK URBAN RENEWAL AUTHORITY  
RESOLUTION NO. 15-FURA-06**

**A RESOLUTION OF THE FREDERICK URBAN RENEWAL AUTHORITY,  
ACCEPTING A LOAN FROM THE TOWN OF FREDERICK, COLORADO**

**WHEREAS**, the Frederick Urban Renewal Authority, hereafter known as the URA, currently has no source of funding for its activities; and

**WHEREAS**, the Town of Frederick is willing to loan the URA \$50,000 subject to repayment within a period of not more than 25 years for the demolition of the Talbert Building. Said loan to be secured by a promissory note and deed of trust on the Talbert Building property also known as Lots 15 and 16, Block 24, Town of Frederick, Colorado..

**BE IT RESOLVED BY THE COMMISSIONERS OF THE FREDERICK URBAN  
RENEWAL AUTHORITY, AS FOLLOWS:**

**Section 1.** The URA authorizes the acceptance of a loan in the amount of \$50,000.00 from the Town of Frederick specifically for the demolition of the Talbert Building and associated legal fees.

**Section 2.** The URA authorizes the Executive Director of the Authority to execute a promissory note in favor of the Town of Frederick for a term not to exceed 25 years and at 0% interest rate.

**Section 3.** The URA agrees to obtain a promissory note and deed of trust form the owners of the property known as Lots 15 and 16, Block 24, Town of Frederick, Colorado.

**Section 4. Effective Date.** This resolution shall become effective immediately upon adoption.

**Section 5. Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 6. Certification.** The Authority Secretary shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND SIGNED 28TH DAY OF APRIL, 2015.**

**ATTEST:**

**FREDERICK URBAN RENEWAL  
AUTHORITY**

By \_\_\_\_\_  
Meghan C. Martinez, Assistant Secretary

By \_\_\_\_\_  
Tony Carey, Chair